INVESTIGATION REPORT

2003 PRIORITY ARRANGEMENTS FOR SURPLUS TEACHERS IN AIDED PRIMARY SCHOOLS

May 2004

Office of The Ombudsman
Hong Kong

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Executive Summary
Investigation Report
on 2003 Arrangements for Surplus Teachers

Introduction

With the steady decline in birth rate in Hong Kong, enrolment of children of school age has decreased in recent years, leading to a reduction in the number of classes in aided primary schools. This, in turn, has resulted in a significant surplus of teachers. In early 2003, the Education and Manpower Bureau (EMB) introduced arrangements ("the 2003 priority appointment") to assist teachers who became surplus in the school year 2003/04.

2. The arrangements impacted on the stakeholders in the education field: serving teachers were concerned about losing their jobs; fresh graduates of teacher training institutions considered the arrangements unfair; schools were restricted in hiring teachers and ultimately students' education would be affected. As the trend for class reduction is anticipated to continue, the issue of surplus teachers will soon surface in secondary schools and in time possibly have implications for the tertiary sector. Against this background, The Ombudsman conducted a direct investigation under section 7(1)(a)(ii) of the Ombudsman Ordinance on EMB's 2003 priority arrangements to examine:

- EMB's implementation of the arrangements,
- their impact on the major stakeholders, and
- implications for the principle of school-based management.

History

3. Teachers in a school become surplus when student enrolment drops. This may be due to a general decline in birth rate within a particular district, migration to new towns and preferences of parents for schools.

4. To cope with the problem of surplus teachers, the then Education Department (ED) (whose functions were legally transferred to EMB on 28 February 2003) introduced placement service in 1975 and succeeded in placing all surplus teachers every year until 2002. For 2002, 59 of 375 surplus teachers could not be placed and ED then arranged for those unemployed to be "seconded to schools of major sponsoring bodies" to serve as supply teachers.

5. In November 2002, ED estimated that in 2003 there would be about 400 surplus teachers plus another 940 candidates (mostly fresh teaching graduates) competing for 850 jobs. The ED Directorate then reviewed the arrangements for surplus teachers and concluded, *inter alia*, that the placement service should be scaled down and there should be no "guaranteed placement". In January 2003, ED issued Circular Memorandum No. 17/2003 requesting schools to advise the department their projected enrolment for the coming school year. The circular also required all vacant teaching posts for the remaining school year be filled by temporary teachers. At the same time, ED started a series of consultation on the proposed arrangements with school sponsoring bodies, school councils, educational organisations and representatives of the profession.

2003 Arrangements

6. In March 2003, EMB issued Circular Memorandum No.45/2003, announcing the 2003 priority arrangements for surplus teachers. The circular required, *inter alia*, aided primary schools to identify their surplus teachers under a set of criteria based on the need of the school or on the principle of "last in, first out". It also required school sponsoring bodies to redeploy surplus teachers to fill vacancies in their schools. Furthermore, a "priority appointment" period up to early July 2003 was introduced, during which schools should offer appointments only to surplus teachers. EMB would also arrange group interviews in June 2003 to facilitate surplus teachers applying for jobs.

7. However, by the end of June 2003, 296 surplus teachers (out of 542) were still unemployed. After consulting the teaching profession, EMB extended the "priority appointment" period, stepped up efforts to encourage schools to fill vacancies with surplus teachers and organised "professional interviews" whereby panels of education experts interviewed those teachers and recommended suitable ones for interview by schools. 119 teachers secured a recommendation during the "professional interviews" and 45 found employment. For the remaining 74, EMB created a new category of posts and arranged for them to be appointed as "Special Supply Teachers" at 65% of his/her salary plus an allowance if the time they worked as a supply teacher exceeded 65% of the school days in any given month. The "priority appointment" period ended on 8 August 2003.

Concerns of Stakeholders

8. On the issue of surplus teachers, the Hong Kong Professional Teachers Union (PTU) maintained that Government should take care of teachers made redundant through no

fault of their own. PTU referred to Appendix 16 of the Code of Aid for Primary Schools, which provided that the School Management Committees (SMC) could terminate the services of a teacher only for unsatisfactory performance despite warnings. PTU held that this did not apply to surplus teachers.

9. In this connection, we note contradicting provisions in the Code: while one section states that SMCs can terminate the services of a teacher by giving three months' notice, Appendix 16 lays down quite complex procedures to be observed strictly when terminating the appointment of a teacher.

10. Students of the Hong Kong Institute of Education (HKIEd) considered the 2003 priority arrangements unfair and objected to EMB's extending the "priority appointment" period from July to August 2003.

11. School sponsoring bodies considered the arrangements a hindrance to their recruitment of teachers as they were repeatedly "encouraged" to consider candidates from the ranks of surplus teachers only and they could not appoint other candidates during the "priority appointment" period.

Impact of the Arrangements

12. When the 2003 priority arrangements eventually settled at the end of October 2003, the employment situation of surplus teachers was as follows:

Surplus teachers Appointed	As at 31.10.03	
	No.	%
As regular teachers	320	*59.0*
As temporary teachers	105	*19.4*
As Special Supply Teachers	74	*13.7*
Not appointed	43	*7.9*
Total	542	*100.0*

13. Statistics from HKIEd showed that among the 632 graduates in 2003, nearly 80% managed to find teaching or teaching-related employment. However, only 59.8% of them were employed as full-time teachers, significantly fewer than the previous two years (88.9% for 2001 and 81.8% for 2002).

Employment of HKIEd Graduates in 2001 - 2003

Year-end	Employment in Schools					Others	**Total**
	Full-time				Part-time		
	Teacher (%)	Teaching Assistant (%)	Others (%)	***Sub-total*** ***(%)***	(%)	(%)	**(%)**
2001	88.9	0.1	0.35	***89.35***	0.35	10.3	**100**
2002	81.8	0.6	1.1	***83.5***	3.4	13.1	**100**
2003	59.8	5.2	6.5	***71.5***	7.8	20.7	**100**

School-based Management

14. On identification of surplus teachers, EMB did leave the school authorities to decide on the selection criteria. However, on appointment of teachers, Circular Memorandum No. 45/2003 not only imposed a "priority appointment" period but schools were told that vacancies should first be filled by surplus teachers. This was contrary to Government's initiative on school-based management, promoted since the 1990s. EMB had attempted to strike a balance between assisting surplus teachers and facilitating schools to recruit suitable teachers. However, as events unfolded, this proved to be a balance tilted towards the surplus teachers.

Findings and Observations

Effectiveness

15. With 92.1% of the surplus teachers securing teaching employment, the arrangements may be said to have substantively achieved the objective to "assist those experienced and committed surplus teachers to remain in the profession", even though only with difficulty and prodding from EMB.

16. The widespread application of the "last in, first out" principle in identifying surplus teachers did retain mostly the longer serving, more experienced teachers but there is no assurance that they performed better or were more committed than those made redundant.

Fairness to fresh graduates

17. Although about 80% of the HKIEd fresh graduates were able to secure employment eventually in schools, less than 60% worked as regular teachers. This is significantly lower than the previous two years.

18. As aided primary schools are the major employers for HKIEd graduates, one can envisage the graduates' anxiety and frustration during the "priority appointment" period when aided primary schools just could not and would not consider their applications. Evidently, EMB had paid little attention to the interests of the HKIEd fresh graduates in the 2003 priority arrangements.

Fairness to schools

19. The 2003 priority arrangements unquestionably imposed restrictions on schools in their employment of teachers, contrary to the spirit of school-based management, particularly when the employment is a contract between the teacher and the school, not with Government. The arrangements left schools with very little time to recruit from other than surplus teachers. This caused inconvenience to schools and did not give new teachers much time to prepare their lessons. Ultimately, it would be the students who suffer.

Fairness to teachers

20. We have been informed that the annual appraisal of teachers in many schools was mainly for the purpose of staff development and could not be used as a basis for identifying

surplus teachers. A teacher's performance was, therefore, seldom taken into account in identifying surplus teachers and younger but brighter teachers might be lost to the students. The "last in, first out" principle for selection of surplus teachers is simpler and expedient, but unsound. A proper performance appraisal system is essential for retention of competent teachers and to the proper development of the teaching profession.

21. On the tenure of teachers, the Department of Justice advised that teachers of aided schools do not have "permanent" employment as perceived by many. On that basis, EMB could have handled the issue of surplus teachers with a better balance of the interests of all parties concerned. However, apparently under pressure from the teaching profession, EMB changed course and the arrangements subsequently implemented slanted in favour of serving teachers.

Fairness to students

22. As the ability of teachers was not taken into account in identifying surplus teachers, the interests of students would be affected. The need for recently trained teachers with new knowledge, e.g. pastoral care and understanding of learning disabilities, is not met. The 2003 priority arrangements caused disruption to school administration which in turn affected school programmes. EMB had not given due regard for the interests of the students.

Use of public funds

23. The employment of 74 surplus teachers as Special Supply Teachers from September 2003 to August 2004 is estimated to cost $19M. However, had these teachers

been employed simply as supply teachers, the cost would be $9.32M. Thus, Special Supply Teachers cost an extra $9.68M. We note that for the first six months of their employment, 21% of the Special Supply Teachers were paid at the basic salary (i.e. 65% of their salary as a regular teacher). In other words, they had worked as a supply teacher for 65% of the active school days, or less. This suggests a definite possibility of under-employment for some Special Supply Teachers. The creation of these new posts is, therefore, not value for public money.

Concluding Remarks

24. EMB's stated aim of the 2003 priority arrangements was to retain experienced and committed teachers in the profession. It seems that the arrangements had succeeded in keeping only the more experienced teachers but might have excluded some highly committed, but younger and less experienced, teachers. In reality, the arrangements aimed primarily to keep surplus teachers employed regardless of the performance of those retained. This may deter young people with good potential from taking up a career in teaching.

25. We do not question the need for EMB to play a part in resolving the surplus teacher issue. Government has a duty to ensure that the transition does not unduly disrupt school operations, to balance the interests of all stakeholders, to facilitate the retention and recruitment of quality teachers only and to guard against waste of public resources. While EMB should involve itself in matters at the macro level such as setting appropriate policies, it should not participate directly in detailed operations like "persuading" schools to take on certain types of candidates.

26. Using performance as a basis for setting priority in redundancy can be controversial but is a common practice in most trades and professions. If schools were to take up their management functions seriously, they should develop with assistance from EMB a proper performance appraisal system for their teachers. We believe that using performance-based criteria, rather than the "last in, first out" principle, to identify and select surplus teachers is fair to the teachers, the students, the schools and the fresh graduates in search of jobs. The 2003 priority arrangements were intended to give schools a free hand to identify surplus teachers. Regrettably, as it happened, many (may be even most) schools continued to adopt the "last in, first out" principle and some felt "pressured" by EMB to recruit only surplus teachers during the "priority appointment" period. We consider that in keeping with the spirit and intent of school-based management, schools should have autonomy and exercise their freedom to recruit teachers.

27. EMB has, on its agenda, plans to review the Code of Aid for Primary Schools. We support this initiative, which will clarify the provisions relating to employment and termination of service of teachers.

28. For the longer term, we are concerned that appointment by seniority rather than by performance and professional excellence may impact on the education for our young, standards of teachers and development of the profession. More junior teachers may perceive their job opportunities as being blocked by those who surpass them only by seniority. At the same time, the teaching profession must equip itself, through re-training, refresher and injection of new blood, in order to face the constant changing requirements in education and maintain the professionalism of teachers.

29. As the problem of surplus teachers will inevitably progress to secondary schools, it is imperative that Government, in consultation with school sponsoring bodies and the teaching profession, take a broader view of all the issues and develop a realistic manpower plan for the school sector.

30. Government and school sponsoring bodies, principals and the teaching profession, teacher training institutions and parents of students are all partners in the education of our young. Each party should critically re-examine the respective role and responsibilities for the development and preparation of young Hong Kong for the challenges in life and contribution to the community.

Comments from EMB

31. EMB contended that although 21% of the Special Supply Teachers were on basic salary, it has no relevance to their taking up supply teacher duties for less than 65% of active school days in any month. Moreover they are full-time teachers who have to take up other education related duties when not engaged in teaching. We do not accept this statement as by definition and nomenclature a Special Supply Teacher is intended to perform, in the main, the duties of a supply teacher. The fact that 21% of them were drawing basic salary cannot rule out the possibility that some of them were working less than 65% of the time as supply teachers.

32. EMB maintained that the extra cost of $9.68M for Special Supply Teachers was "a small price" to pay for maintaining stability of the teaching profession. Again, we do not agree with this view. In times of financial stringencies when the Civil Service is facing

budget cuts and recruitment freeze, we question if such extra cost is just "a small price".

33. In addition to the above two points, EMB also provided a general statement of its position on the issue of surplus teachers. Our comments on EMB's general statement are as follows:

(a) We welcome EMB's acceptance that it should not involve itself in the recruitment process of surplus teachers but we have reservations on its retention of the arrangements for Special Supply Teachers albeit as "a last resort".

(b) EMB maintained that it would not be possible to project accurately future supply and demand of teachers or change in student population and that it would not be in the long-term interest of education to reduce the number of teacher places. We appreciate the difficulties in making accurate projections. However, we consider it imperative for Government to plan and periodically review the community's manpower needs. We emphasise that we have not suggested reducing the number of teacher places. It is our view that EMB, schools and teaching profession should prepare themselves through retraining, refresher and injection of new blood in order to meet the challenge of changing needs in education.

34. After careful consideration of the comments from EMB, The Ombudsman remains of the view that our suggestions should stand. We will monitor the progress of EMB's follow-up action on the following issues:

- EMB to re-examine arrangements for surplus teachers
- EMB to focus on matters at macro level
- Schools to develop proper performance appraisal system with advice and guidance from EMB
- Schools to practice school-based management properly
- Schools and the teaching profession to anticipate and adapt to change
- EMB to expedite review of Code of Aid
- EMB to develop a realistic manpower plan for the school sector; and
- EMB to review teacher training programme.

Office of The Ombudsman

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LIST OF ANNEXES

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1	School sponsoring bodies approached for comments on the 2003 priority arrangements	1.11
2	Education and Manpower Bureau Circular Memorandum No. 45/2003	2.11
3	Summary of provisions in the Code of Aid for Primary Schools relating to dismissal and termination of appointment of teachers	3.2

1

INTRODUCTION

Background

1.1 With the steady decline in birth rate in Hong Kong, children of school age have correspondingly decreased. Enrolment has dropped and Government sees the need for class restructuring. The result is a significant surplus of teachers in aided primary schools and Government's introduction of priority arrangements in the 2003/04 school year ("the 2003 priority arrangements") *via* the Education and Manpower Bureau (EMB) for their continued employment.

1.2 These arrangements generated considerable public debate. Media reports suggested that both serving teachers and fresh graduates of the Hong Kong Institute of Education (HKIEd) felt aggrieved : teachers were concerned over the cutting of jobs and unfairness in identifying surplus teachers; fresh graduates considered the arrangements as unfair competition against them. Meanwhile, this Office received several complaints on this subject.

1.3 On 28 November 2003, EMB announced similar arrangements for surplus teachers for 2004/05. This was followed by a circular memorandum on 16 March 2004 announcing details of an Early Retirement Scheme for all regular teachers in aided primary schools (including special schools) facing class reduction in the 2004/05 - 2006/07 school years.

1.4 In 2003/04, 542 teachers became surplus from reduction in primary classes. For 2004/05, EMB has estimated that some 600 teachers will become surplus. The trend for class reduction is anticipated to continue and to progress to secondary education. The problem of surplus teachers is bound to impact on secondary schools and in time possibly on the tertiary sector, notably local teacher training institutions.

1.5 Against this background, The Ombudsman, by virtue of her authority vested in section 7(1) (a) (ii) of The Ombudsman Ordinance, notified the Secretary for Education and Manpower (SEM) on 17 October 2003 of her intention to conduct a direct investigation on the 2003 priority arrangements. In response, SEM indicated readiness to co-operate. This

Office then announced this investigation at a press conference on 14 November 2003.

Purpose and ambit

1.6 The investigation aimed to study the following aspects of the 2003 priority arrangements :

(a) their implementation and monitoring by EMB;

(b) feedback from major stakeholders including schools, teachers and fresh graduates of local teacher training institutions;

(c) impact of the arrangements on these stakeholders, and

(d) implications for the principle of school-based management.

1.7 The investigation has focused on the basis and propriety, effectiveness and fairness of the arrangements and on areas for improvement. We hope that our findings will help Government in formulating future strategies on an issue likely to be with us for some years to come.

Methodology

1.8 On declaring the investigation, we invited views from members of the public. In the course of our investigation, we examined relevant documents from EMB, conducted a survey among the 2003 HKIEd graduates of the primary stream on their employment situation and approached a number of organisations for information and comments.

1.9 For our survey of HKIEd graduates, a questionnaire was distributed with the assistance of the HKIEd administration to 632 graduates in December 2003 for return direct to this Office within the month. A total of 233 (36.9%) returned our questionnaire.

1.10 HKIEd also provided statistics on the employment situation of their 2003 graduates.

1.11 The organisations we approached for views included :

(a) teachers' association, i.e. the Hong Kong Professional Teachers' Union (PTU) and the Hong Kong Federation of Education Workers;

(b) 11 major school sponsoring bodies (list in **Annex 1**); and

(c) HKIEd.

PTU presented their views in writing. Of the 11 sponsoring bodies approached, four responded in writing. We further discussed with some members of the school sector for background and feedback on the 2003 priority arrangements.

Report

1.12 The draft Report was put to EMB on 5 May 2004 for comments and these were received on 14 May 2004. This final report was issued on 20 May 2004.

2

THE ARRANGEMENTS

Causes for surplus

2.1 Surplus teachers in individual aided primary schools are not a new issue. The number of teaching posts in an aided school is calculated on the basis of the number of operating classes. This depends on student enrolment, with teachers becoming surplus when there is a drop in student population. Such drop may be attributed to a general decline in birth rate within a particular district, migration to new towns and parental preferences for schools. This would not be a problem if contained in a small number of schools and there were sufficient teaching posts in aided schools elsewhere in Hong Kong.

Arrangements before 2003

2.2 Before 1974, teachers found to be "redundant" in aided primary schools would look for jobs themselves in other schools. Responding to PTU's request, a placement service was introduced in 1975 by the then Education Department (ED)[1] to help surplus teachers find teaching posts in other aided primary schools. This has since become an annual exercise.

2.3 Since 1975, this placement service would be activated in April each year, after ED has notified schools of their approved class structure and the staff establishment for the next school year. All vacancies for teachers, including new posts for the coming school year, would be "frozen" in April until the completion of placement about mid-August. At the same time, schools would identify surplus teachers in accordance with a "last in, first out" principle and procedures detailed by the then ED in a six-page document. These teachers would then register with ED for referral to schools for interview after matching their subject specialties with requirements of the schools. Although final decisions would be made by schools, ED would strongly advise them to give priority to surplus teachers. During this "priority appointment" period, schools could not enter into a formal contract of appointment with any teacher unless "registered" as a surplus teacher.

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[1] The transfer of functions from ED to EMB took legal effect on 28 February 2003.

2.4 Before 2002, all surplus teachers were successfully placed. In 2002 however, 375 surplus teachers registered with ED, competing with fresh graduates of HKIEd and other job seekers for about 500 vacancies of regular teaching post. By late August 2002, 59 of the 375 surplus teachers could not secure a regular teaching post. As a special exercise, ED arranged for them to be "seconded to schools of major school sponsoring bodies" to serve as supply teachers.

Need for new arrangements for 2003/04

2.5 The 375 surplus teachers in 2002 were an increase of over 150% above the 2001 figure of 148. The situation clearly indicated that with the success of family planning education over the years, the continuing decline in birth rate coupled with the recent decrease in young arrivals from the mainland of China was beginning to impact significantly on the number of children of school age and creating an acute surplus of teachers in aided primary schools. As it turned out, this trend led to a surplus of 542 teachers in the summer of 2003. Meanwhile, the Director of Audit's Report No. 39 (October 2002) criticised the under-utilisation of resources from under-enrolled classes and considered the "last in, first out" principle as being at variance with good practice in human resource management.

2.6 In November 2002, the then ED Directorate reviewed the placement service for surplus teachers. They estimated at that time a surplus of about 400 teachers in 2003 who, together with about 940 others seeking teaching posts[2], would be competing for some 850 vacancies. Meanwhile, there was negative feedback from representatives of school sponsoring bodies and school principals on the placement service :

(a) mismatch between surplus teachers' subject specialties and school requirements;

(b) inability of some surplus teachers to live up to the expectations of schools;

(c) contradiction of the placement service with the spirit of school-based management;

(d) difficulty of fresh graduates of HKIEd to secure teaching posts after the

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[2] This included mainly recent graduates from teacher training programmes and those rejoining the teaching profession.

"defreezing" of teaching vacancies;

(e) surplus teachers feeling labelled and some being looked down upon during job interviews; and

(f) unfairness of redundancy by the "last in, first out" principle rather than by performance.

2.7 The then ED Directorate concluded that the placement service should be scaled down. While every possible care and support would be provided to help surplus teachers to find jobs, there should be no "guaranteed placement". It was recognised that the placement service would have to stop at some point to reduce inconvenience to schools from freezing of vacancies and the criteria for identifying surplus teachers be reviewed to retain the best teachers in the profession. A proposal for the 2003 arrangements was then mapped out, which included :

- a "priority appointment" period for surplus teachers to fill vacant posts;
- a system to identify surplus teachers and vacancies;
- interflow of information on surplus teachers and vacancies; and
- special assistance to surplus teachers seeking employment such as group interviews in May/June 2003.

2.8 On 27 January 2003, EMB issued Circular Memorandum No. 17/2003, which requested aided primary schools to advise the Bureau their projected enrolment in Primary 2 to Primary 6 for the coming September. The circular also required all teaching posts falling vacant from February 2003 to the end of the school year to be filled by temporary teachers. Furthermore, schools must report to the Bureau all such vacant posts and any anticipated vacancies for 2003/04. At the same time, EMB started a series of consultation on the proposed arrangements with school sponsoring bodies, school councils, educational organisations and representatives of the profession.

Consultation

2.9 On 27 January 2003, EMB held a full-day consultation session with representatives of these bodies. The meeting expressed the following views on major facets of the proposed

arrangements :

(a) Identification of surplus teachers

- There was majority support for giving flexibility to schools in identifying surplus teachers.

- Some considered the "last in, first out" principle unfair to schools as they could not retain younger and more energetic teachers. Others were concerned that dropping this principle altogether might cause confusion and suggested a transitional period.

- Some suggested using fairer criteria such as staff appraisal, but others were concerned that appraisal systems had not been fully developed among schools.

- Many considered it most important for Government to provide clear guidelines for assisting schools to draw up identification criteria and to set up an appeal mechanism for complaints from teachers.

(b) Job security

- Some supported removing the "lifelong" job guarantee[3], especially with non-performing teachers.

- Some were concerned that this would seriously affect the morale of the profession. Others argued that the guarantee would be more demoralising if new blood had no chance to join the profession.

(c) "Priority appointment" period

- There was general support for a "priority appointment" period for surplus teachers, but this should end in early July.

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[3] Section 57 of the Code of Aid for Primary Schools states that the employment of teachers, having served a probationary period, shall be "permanent". EMB Memorandum Circular No. 140/2003 on 13 June 2003 clarified that the term "permanent" in this section is used to distinguish the employment of teachers with relevant qualifications from the temporary employment of unqualified teachers (see para. 3.4).

- All requested earlier confirmation of the class structure and the teaching establishment for the following (2003/04) school year so that the schedule for identifying surplus teachers and priority appointment could be advanced accordingly.

(d) Information on vacancies and surplus teachers

- All agreed that maintaining adequate interflow of information between schools and surplus teachers would greatly reduce efforts of both school and teachers.

- Some suggested the use of the Internet.

(e) Assistance to surplus teachers

- Group interview was generally considered effective.

- There was no specific view on having a panel to decide on the suitability of surplus teachers unable to find a job in the teaching profession.

- Some favoured the 2002 arrangements for the 59 "unplaced" surplus teachers (i.e. secondment to schools of major sponsoring bodies to serve as "supply teachers"). Others suggested a quota for such "supply teachers".

- Some suggested more flexibility for schools in using their existing resources such as the Capacity Enhancement Grant and reducing the class size to create more teaching jobs.

(f) Subject mismatch

- Most found mismatch of subjects to have caused considerable administrative inconvenience to schools and created difficulty for surplus teachers finding jobs.

2.10 On 13 February 2003, EMB met PTU to seek their views on and support for the proposed arrangements. EMB made it clear that schools should formulate their own school-

based criteria according to their needs in identifying surplus teachers. However, PTU stated, and EMB did not object, that "last in, first out" was a fair and orderly principle. PTU also expressed concern over surplus teachers who still could not secure employment after the group interviews in May/June. EMB and PTU reassured each other that, with sincerity and cooperation, the problem could be solved.

The 2003 arrangements

2.11 On 21 March 2003, EMB issued Circular Memorandum No. 45/2003, announcing the 2003 priority arrangements for surplus teachers (see **Annex 2**). In essence, the arrangements included the following features :

(a) Aided primary schools were required to report all vacancies to the Bureau for uploading to the EMB homepage.

(b) Schools could appoint more than one teacher to fill a teaching post on their approved establishment, i.e. job-sharing.

(c) Schools were required to identify their surplus teachers under a set of "school-based" criteria devised by the School Management Committee (SMC). The criteria could be based on the needs of the school or on the "last in, first out" principle. SMCs were also required to set up an appeal mechanism for those identified as surplus teacher.

(d) A sponsoring body operating more than one school should re-deploy **all** its surplus teachers to fill vacancies available in schools under its sponsorship.

(e) Schools were required to submit personal particulars of surplus teachers to EMB and issue a Letter of Reference to each to certify his/her identity as surplus teacher.

(f) Surplus teachers could obtain information on vacant positions from the EMB homepage and apply direct to those schools by forwarding their personal particulars together with their Letter of Reference.

(g) In processing applications from surplus teachers, schools should offer appointment only to those with a Letter of Reference. Once an appointment had been confirmed, the school was to inform EMB immediately to update the

homepage.

(h) EMB would arrange group interviews in May/June 2003 to facilitate surplus teachers in securing teaching posts.

2.12 The circular anticipated that with the 2003 priority arrangements, surplus teachers would be placed by early July 2003. After that, schools could appoint other teachers to fill their vacancies.

Further efforts by EMB

2.13 However, at a meeting between EMB and PTU on 19 May 2003 to review the progress of recruitment, EMB reported that there were 486 surplus teachers looking for jobs but only 161.5 teaching vacancies. PTU urged EMB to issue a letter to prompt schools into urgent action in appointment and to remind them to give priority to surplus teachers.

2.14 At a meeting between EMB and major school sponsoring bodies on 10 June 2003 on employment status of surplus teachers, EMB reported that there were still 412 surplus teachers looking for jobs but only 177.5 vacancies. The meeting also noted that, despite vacancies having been notified on the EMB homepage since 30 April 2003, quite a number of schools had not yet interviewed any surplus teachers. As regards school sponsoring bodies, which were required to redeploy their surplus teachers to fill vacancies in their schools, 11 had not yet completed their redeployment arrangements.

2.15 On 14, 21 and 28 June 2003, EMB organised group interviews to assist those surplus teachers still unable to find a job. Schools with vacancies were invited to participate in a group recruitment centre where surplus teachers could apply to different schools and attend multiple interviews *in situ*. However, by the end of June 2003, 296 surplus teachers were still unemployed.

Extended period of priority appointment and professional interviews

2.16 On 4 and 7 July 2003, EMB met with PTU and reached consensus on a number of issues including not mentioning the timetable for "defreezing", PTU not objecting to voluntary job-sharing, EMB making greater efforts to have vacancies (then numbering about 155) filled by surplus teachers, allowing schools and sponsoring bodies to apply again for

creation of curriculum leader posts[4] and making use of short-term vacancies for surplus teachers to cover for regular teachers taking study leave. In this connection, EMB issued a series of letters to schools on these measures.

2.17 As additional assistance, on 23 and 25 July 2003, EMB organised professional interviews for surplus teachers still in search of jobs. For this purpose, EMB formed a panel with representatives of school sponsoring bodies, education professionals and Government subject specialists. Of the 162 surplus teachers who participated, 119 secured a recommendation and were referred to schools for interviews. 45 of the "recommended" teachers found a job. For the remaining 74, EMB reached agreement with 11 school sponsoring bodies on 2 August 2003 for their appointment as Special Supply Teachers in proportion to the number of schools under each of them. A Special Supply Teacher would be employed on 65% of the salary he or she would earn if appointed as a regular teacher, plus an allowance if the number of days worked as a supply teacher exceeded 65% of the active school days in a month. In the standard contract prepared by EMB for the appointment of Special Supply Teachers, it is stated that their main duty was to work as a supply teacher. However, where there was no supply teacher duties, the Special Supply Teachers would take up or assist in education-related duties.

2.18 On 28 July and 5 August 2003, EMB met again with PTU to discuss matters arising from the professional interviews, such as appeal cases and follow-up assistance (e.g. training to improve professional capability) to surplus teachers who did not secure "recommendation" from the professional interviews.

2.19 On 8 August 2003, EMB issued a circular letter to all aided primary schools, announcing the end of the "priority appointment" period. Schools were then free to appoint any qualified teachers to fill remaining vacancies.

2.20 At a meeting on 14 August 2003, EMB and PTU agreed on the arrangements for Special Supply Teachers. Then, through a letter dated 15 August 2003, EMB formally allocated the 74 surplus teachers to the 11 school sponsoring bodies for appointment as Special Supply Teachers.

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[4] These are posts at the rank of Primary School Master/Mistress, to last for five years, to support school heads on curriculum development and to promote whole person development and life-long learning. Aided primary schools are invited to apply in 2002, 2003 and 2004, normally by May each year.

2.21 In summary, the 2003 priority arrangements provided a phased programme of assistance to the surplus teachers :

During *"priority appointment" period - January to early August 2003*

(a) School sponsoring bodies redeployed their own surplus teachers;

(b) Surplus teachers applied for teaching posts published on the EMB homepage;

(c) EMB facilitated surplus teachers' job applications through group interviews;

(d) EMB organised professional interviews and referred "recommended" teachers for consideration by schools; and

After *"priority appointment" period*

(e) EMB arranged for teachers "recommended" but still unemployed to work in schools as Special Supply Teachers.

3

CONCERNS OVER THE ARRANGEMENTS

Concerns of teaching profession

3.1 In finalising and implementing the 2003 priority arrangements, EMB was in close consultation with PTU. The key concerns of the teaching profession, as represented by PTU, were that surplus teachers should not lose their jobs because of class reduction and that Government should make every effort to enable them to remain in the profession. This position was also evident in PTU's written submission to this Office on this investigation, as summarised below :

(a) The surplus teachers should be taken care of because their loss of jobs resulted from class reduction in primary schools through no fault of their own. They were not dismissed but transferred to another school (「調職轉校」). The shortage of teaching posts was only in certain areas but other schools, expanding or new, were in need of teachers. It would be unreasonable to make serving teachers redundant in one area while offering employment to others in another area.

(b) Legally speaking, terminating a teacher's service in an aided primary school should follow the procedures laid down in the Code of Aid. Appendix 16 of the Code stipulated that a SMC should first issue one or more warnings to a teacher, pointing out his/her shortcomings. Only where no improvement was made could the service of the teacher be terminated. This clause was in the contracts for regular teachers and should be observed by both teachers and aided schools.

3.2 We noted that the Code of Aid for Primary Schools sets out the terms and conditions for employment of teachers. On the question of tenure, the Code does contain some confusing, and even conflicting, guidelines. Sections 56, 57 and 58 and Appendices 16 and 17 of the Code provide for the conditions under which an aided school may dismiss or terminate the appointment of a teacher (see **Annex 3**). While section 58(c) of the Code says

that an appointment is terminable as long as three months' notice in writing is given, the other sections provide for a teacher's appointment to be "permanent" and teachers may be dismissed only for poor performance. It is possible that, because no teacher in an aided school had ever been made surplus or redundant before 2003, this contradiction in the Code either was not much noticed or gave little cause for concern.

3.3 Against this background, EMB sought legal advice from the Department of Justice (D of J) in January 2003 to clarify if the term "permanent" had any implication on permanent appointment or legitimate expectation of such appointments as mentioned by PTU. D of J confirmed that, despite the absence of a redundancy provision, the Code would not affect the termination of employment of serving teachers resulting from reduction in the number of classes and that it was within the SMC's power to terminate a teacher's service subject to the requisite notice.

3.4 On 13 June 2003, EMB issued Circular Memorandum No. 140/2003 to clarify that the term "permanent" in section 57 of the Code is used to distinguish the employment of teachers with relevant qualifications from the temporary employment of unqualified teachers which may be allowed if a qualified person is not available to fill a vacancy under section 55 of the Code (**ANNEX 3**).

3.5 In the course of this investigation, EMB has explained that under section 3 of the Code, the Director of Education may issue instructions or directives when necessary. Thus, Circular Memorandum No. 140/2003 should dispel any doubt or misunderstanding that a teacher's appointment might be "permanent" under the Code.

3.6 The concerns of teachers were also reflected in complaints to EMB about schools not complying with Circular No. 45/2003, such as not having clear selection criteria or appeal channels. District Chief School Development Officers of EMB would investigate such complaints. If substantiated, they would ensure that the school concerned duly rectify the situation.

3.7 In this connection, EMB received complaints from 12 of the 542 surplus teachers. These were mostly against their schools for lack of transparency in the selection criteria. Ten of the 12 cases were found to be unsubstantiated and two partially substantiated.

Concerns of HKIEd graduates

3.8 In March 2003, representatives of HKIEd students wrote to EMB, with 962

signatures, to express their concern over the unfairness of the 2003 priority arrangements. They pointed out that schools should be allowed to select their teachers based on applicants' ability and experience. While surplus teachers and fresh graduates had their respective merits, the 2003 priority arrangements would reduce fresh graduates only to a second choice for selection. In response, EMB pointed out that the 2003 priority arrangements aimed to recruit surplus teachers to fill only vacant regular teaching posts and schools were at liberty to recruit temporary teachers, teaching assistants or other teaching posts funded by the schools. EMB also indicated that it expected the arrangements to end in early July.

3.9 On 16 July 2003, the representatives wrote again to EMB expressing their concern over Government's failure to end the "priority appointment" period in early July as promised. They considered that this would paralyse school operations, allow new teachers too little time to prepare themselves and in the final analysis adversely affect services for the students. EMB met representatives of the graduates on 20 July 2003 and gave them a written reply on 31 July 2003. The reply explained the particularly difficult situation in 2003, reassured them of EMB's intention to minimise disruption to school administration and suggested their seeking temporary as well as regular teaching posts.

3.10 Our survey in December 2003 of HKIEd fresh graduates found 138 (or 60%) of 230 respondents against the 2003 priority arrangements. 28 respondents (12%) stated that, while they did not object to the arrangements, the "priority appointment" period should not have been extended beyond the original date. Four respondents indicated support for the arrangements while 60 (26%) were neutral on the arrangements.

3.11 Our survey also found that despite 78.6% of the HKIEd graduates who eventually found employment as teachers or in education-related jobs, many considered the "priority appointment" period discouraging and worrying as they had a difficult time securing interviews, let alone job offers. Some of their comments on, and reasons for objection to, the 2003 priority arrangements were :

(a) The arrangements were unfair in depriving them of the right to fair competition for a job. No other profession had been accorded such preferential treatment.

(b) Surplus teachers, with their practical teaching experience, had an edge over recent graduates. There was no justification for EMB according priority to the surplus teachers.

(c) The arrangements only catered for teachers in the regular establishment but not for supply teachers or those on contract terms, who were equally qualified and experienced. This raised questions on EMB's fairness in its treatment of different grades of teachers.

(d) EMB deferred the deadline for the "priority appointment" period from early July to 8 August 2003. This left very little time for those who subsequently secured a teaching job to prepare their lessons before school commenced in September. This created confusion administratively for the schools and in the end the students would suffer. EMB should have adhered to the original deadline irrespective of the employment status of surplus teachers at that time.

(e) The deferment of the deadline was unnecessary as the schools had ample time and opportunities to hire surplus teachers if they were so inclined.

(f) EMB estimates of the number of students attending school and teachers required were inaccurate, leading to an over-supply of teachers. The arrangements would not solve the problem of surplus teacher once and for all. In any case, EMB should not be involved in selection of teachers for schools.

(g) Employment as a teacher should depend on ability, not because one is surplus.

(h) EMB should not impose restrictions on aided primary schools but allow principals to hire suitable recent HKIEd graduates as well as surplus teachers.

Concerns of schools

3.12 In response to our invitation for views, representatives of school sponsoring bodies and school councils indicated that, in complying with the EMB guidelines on the 2003 priority arrangements, they had the following misgivings :

(a) The arrangements hindered their recruitment efforts during the "priority appointment" period, when not only could they not offer employment to teachers of their choice but EMB also "encouraged" them to select only candidates from the pool of surplus teachers irrespective of their past performance or suitability for a job; and

(b) The arrangements aimed only to protect serving teachers and restricted their

choice of candidates.

3.13 These comments echoed some of the views expressed when EMB consulted the school sponsoring bodies and school councils on the 2003 priority arrangements : that schools should be given greater flexibility in hiring teachers, that the "lifelong guarantee" of employment should be removed and that the "priority appointment" period should not be too long (see para. 2.9).

4

IMPACT OF THE ARRANGEMENTS

Employment of surplus teachers

4.1 The 542 surplus teachers identified competed with some 940 fresh graduates from teacher training institutions for about 850 vacancies. Through the 2003 priority arrangements, 499 (or 92.1%) of the surplus teachers were able to remain in employment, regular or temporary, in aided primary schools. The table below shows the employment situation of the surplus teachers on conclusion of the "priority appointment" period on 8 August and upon settlement eventually at the end of October 2003 :

Surplus teachers Appointed	As at 08.08.03		As at 31.10.03	
	No.	%	No.	%
As regular teachers	305	*56.3*	320	*59.0*
As temporary teachers	78	*14.4*	105	*19.4*
As Special Supply Teachers	-	-	74	*13.7*
Not appointed	159	*29.3*	43	*7.9*
Total	542	*100.0*	542	*100.0*

4.2 In sum, 59% of surplus teachers eventually found employment as regular teachers and 33.1% as temporary teachers. Just below 8% were not employed in an aided school in one form or another.

Employment of HKIEd graduates

4.3 Our survey in December 2003 on the 2003 HKIEd graduates found that among the 232 (out of 632) who had responded, 181 (78.6%) were employed in the education sector, with 142 (61.7%) as teachers and 39 (16.9%) in education-related jobs (such as teaching assistants). For the rest, 17 (7.4%) were working in the private sector, 19 (8.3%) continuing further studies and 14 (6.1%) unemployed. (One respondent did not answer this specific

question.)

4.4 According to a HKIEd survey in September to December 2003, to which 522 (out of 632) graduates responded, 414 (79.3%) graduates secured employment in schools by the end of December 2003, with 376 (72.1%) in teaching posts (including teaching assistants) and 38 (7.2%) in other school-based jobs (such as IT coordinators and research assistants). For the rest, 40 (7.7%) were in non-education sector, 53 (10.1%) went on to further studies, while 15 (2.9%) were still in search of employment. The table below gives a more detailed breakdown of their employment situation as at 31 December 2003 :

Employment in Schools						Non-Education Employment	Further Studies	Job Searching	**Total**
Full-time			Part-time						
Teaching	Others	***Sub-total***	Teaching	Others	***Sub-total***				
339 (65.0%)	34 (6.5%)	***373 (71.5%)***	37 (7.1%)	4 (0.7%)	***41 (7.8%)***	40 (7.7%)	53 (10.1%)	15 (2.9%)	**522 (100%)**

4.5 Both surveys indicate that nearly 80% of the HKIEd graduates managed to find teaching or teaching-related employment. However, compared with the previous two years, far fewer graduates were able to find full-time teaching jobs in 2003, let alone as regular teachers, as shown in the table below :

As at 31 Dec	Employment in Schools					Non-education employment (%)	Further Studies (%)	Job Searching (%)	**Total (%)**
	Full-time				Part-time (%)				
	Teacher (%)	Teaching Assistant (%)	Others (%)	***Sub-total (%)***					
2001	88.9	0.1	0.35	***89.35***	0.35	0.7	8.8	0.8	**100**
2002	81.8	0.6	1.1	***83.5***	3.4	4.6	4.9	3.6	**100**
2003	59.8	5.2	6.5	***71.5***	7.8	7.7	10.1	2.9	**100**

School-based management

4.6 Under Government's initiative of school-based management promoted since the 1990s, SMCs have considerable autonomy and are expected to decide on all important administrative issues, including staff matters. The fact that the 2003 priority arrangements

required schools to appoint surplus teachers as a matter of priority imposed constraints on school-based management. In this connection two aspects of the arrangements are worth special examination:

- identification of serving teachers as surplus; and
- appointment of teachers to fill available vacancies.

4.7 For identification of surplus teachers, the 2003 priority arrangements did leave the school authorities to decide on the selection criteria by relaxing the "last in, first out" principle from mandatory to optional. Circular Memorandum No. 45/2003, which laid down the details of the 2003 priority arrangements, required SMCs to define their own set of school-based criteria (such as the genuine needs for subject specialities and development requirements), although schools could still adopt the "last in, first out" principle.

4.8 SMCs were to set up an appeal mechanism and school sponsoring bodies were to ensure that both the criteria and the appeal mechanism were applied consistently within their schools. Unfortunately, many SMCs seemed not to have used this free hand to the benefit of their schools by adopting performance-based criteria to identify and select surplus teachers.

4.9 On appointment of teachers, EMB professed this to be a decision for SMCs with their own recruitment process. However, not only did Circular Memorandum No. 45/2003 impose a "priority appointment" period, representatives of school sponsoring bodies indicated that they had also been subjected to "strong persuasion from EMB" to give priority consideration to surplus teachers to fill their vacancies. Furthermore, actual events evidenced EMB's close involvement when a large number of surplus teachers were still unable to secure employment : extending the "priority appointment" period, organising group interviews and then introducing the professional interviews. EMB has explained to our Office that this was an attempt to strike a balance between assisting surplus teachers and facilitating schools to recruit suitable and experienced teachers. As events unfolded, this proved to be a balance tilted towards the surplus teachers.

Recent EMB initiatives

4.10 EMB expects the problem of surplus teachers to persist in aided schools. In this light, EMB has reviewed the arrangements in formulating the strategy for the 2004/05 school year as follows :

(a) Like all other professions, teachers should compete for employment on their merits. There should not be any "job guarantee" for serving teachers;

(b) Schools should identify surplus teachers on grounds of performance and subject match rather than the "last in, first out" principle;

(c) Government will facilitate re-employment of experienced, committed and professional teachers by sharing information on surplus teachers with school sponsoring bodies; and

(d) The interests of serving teachers should be balanced with graduating teachers, as the teaching profession needs new blood to sustain its vitality.

4.11 On 28 November 2003, EMB announced the 2004 arrangements by Circular Memorandum No. 318/2003. They are similar to the 2003 priority arrangements but have the following main differences :

(a) Greater emphasis on measures to minimise the number of surplus teachers (such as job-sharing, appointing surplus teachers to temporary posts and teachers taking no-pay leave, thus freeing up more posts) before schools identify surplus teachers;

(b) Removal of the "last in, first out' principle as a criterion for identifying surplus teachers; and

(c) Cancellation of group interviews.

4.12 On 27 February 2004, EMB obtained approval from the Finance Committee of the Legislative Council to introduce an Early Retirement Scheme for teachers in aided primary schools facing class reduction. Those opting for the scheme are eligible for *ex gratia* payment up to a maximum of 12 months' salary if they meet certain criteria in age and length of service and have the support of their SMC. On 16 March 2004, Circular Memorandum No. 64/2004 announced the details of the scheme.

5

FINDINGS AND OBSERVATIONS

Trend for Surplus

5.1 There has always been a problem of surplus teachers in individual aided schools. With the steady decline in birth rate and the decrease in young arrivals from the mainland, this has become increasingly serious and will evidently persist. By 2002, 59 of the 375 surplus teachers could not secure regular teaching posts, as a result of which the then ED had to arrange for them to be "seconded" to schools as supply teachers. 2003 saw a 44.5% increase to 542 surplus teachers. EMB, therefore, instituted the 2003 priority arrangements as "a measure to assist those experienced professional and committed surplus teachers to remain in the profession and continue to contribute to education in Hong Kong".

Effectiveness of the arrangements

5.2 EMB has made it clear that the 2003 arrangements were intended to retain experienced and committed professionals. We have examined the effectiveness of the arrangements in this light.

5.3 As mentioned in para. 4.1, 92.1% of the surplus teachers secured teaching employment eventually. However, this must be seen in the context that 33.1% of the teachers had only temporary jobs. Furthermore, such "success" was achieved only with considerable difficulty and immense input from EMB, as illustrated by the table below :

2003	Assistance offered	Surplus teachers unemployed at month-end	
		No.	%
April	• EMB put vacant posts on the web on 30 April	542*	*100.0*
May	• EMB wrote to prompt schools to expedite recruitment of surplus teachers on 29 May	463	*85.4*

June	• EMB organised group interviews on 14, 21 & 28 June • EMB wrote to require schools to use vacancies arising from provision of curriculum leaders to absorb surplus teachers on 24 June	296	*54.6*
July	• EMB organised professional interviews on 23 & 25 July	165	*30.4*
October	• EMB arranged with schools to create Special Supply Teacher posts in August for 74 surplus teachers	43	*7.9*

*(*Total number of surplus teachers identified for the school year 2003)*

5.4 We have received information from other sources that some principals had resorted to subterfuge, by withholding appointments until the "priority appointment" period was over, in order to recruit teachers of their choice. This is, to some extent, corroborated by information from HKIEd graduates of instances when principals undertook to offer them regular teaching posts during the "priority appointment" period but issued the offer letter only after that period. A representative of a school sponsoring body indicated that it was possible to circumvent the EMB directive to hire only surplus teachers during that period. Yet, in so doing, the principal must be prepared to withstand EMB's persistent "persuasion" to fill the vacant posts earlier with surplus teachers.

5.5 The widespread application of the "last in, first out" principle by schools for expedience in identifying surplus teachers indeed retained mostly the longer serving, more experienced teachers. Yet, in the absence of sound performance appraisal, there was no assurance that those retained had performed better or were more firmly committed to education than others made redundant or those graduating from teacher training institutions. Priority for surplus teachers against fresh graduates also meant depriving the latter of opportunities for employment. This was ironic because Government had invested substantial public subsidy for the training of HKIEd graduates as professional teachers.

5.6 In this light, the 2003 priority arrangements were not entirely effective in retaining and recruiting experienced **and** committed teachers. We make no assumption or suggestion that the surplus teachers identified were in any way less experienced or committed. However, some fresh graduates might well have been comparable, particularly in commitment. In short, EMB's good intentions (para. 5.2) were realised only in part.

Fairness of the arrangements

Fairness to fresh graduates

5.7 As mentioned in Chapter 3, most graduates of HKIEd considered the 2003 priority arrangements grossly unfair to them as they were excluded from consideration by schools during the "priority appointment" period. Statistics in Chapter 4 show that, although about 80% of the graduates were able to secure employment eventually in schools, less than 60% worked as regular teachers. HKIEd statistics show that the proportion of fresh graduates getting part-time teaching jobs was significantly higher in 2003 than previous years. Although there may be many factors contributing to this phenomenon, we believe that the priority given to surplus teachers in the face of the steady decline in the number of teaching vacancies could also have had an effect.

5.8 Aided primary schools are the major employers for HKIEd graduates as compared with, say, private or Government schools – our survey found that aided primary schools employed 67% of the 2003 HKIEd graduates who had found jobs as teachers. The anxiety and frustration of fresh graduates during the "priority appointment" period could not have been less intense than the surplus teachers' when aided primary schools just could not and would not consider their applications. As their years of teacher training have been funded by Government subvention, the graduates must have found it a contradiction, and an irony, that they should have been subjected to such unfair competition.

5.9 Throughout the drawing up of the 2003 priority arrangements, EMB was conscientious in consulting the teaching profession, school councils and school sponsoring bodies to balance the interests between schools and serving teachers. Little attention seems to have been focused on the interests of fresh graduates of teacher training institutions. In response to the grave concern expressed by the HKIEd graduates, EMB's only advice was that they should look for temporary as well as regular teaching posts (para. 3.9). This must have been a blow to the graduates.

Fairness to schools

5.10 The 2003 priority arrangements unquestionably imposed restrictions on schools in the employment of teachers *vide* Circular No. 17/2003 and No. 45/2003, from January 2003 to the conclusion of the "priority appointment" period, then extended from early July to early August 2003. Schools under the 11 school sponsoring bodies were subject to the additional requirement to absorb 74 surplus teachers as Special Supply Teachers, when earlier efforts to

place them had been in vain.

5.11 Such measures seem to us contrary to the spirit of school-based management. This is particularly the case with recruitment and selection of staff when in law the contract of employment is one between the school and the teacher. Schools have the authority to select the teachers most suited to their needs. School-based management, positively promoted by EMB in recent years, encourages schools to act for themselves and to be accountable. In our view, the 2003 priority arrangements restricted, rather than facilitated, schools in their choice of teachers. This is another contradiction and irony engineered by EMB.

5.12 The 2003 priority arrangements also did not leave schools much time to recruit from other than surplus teachers. This not only caused schools considerable inconvenience in administration but also gave new teachers little time to prepare for the school year. Ultimately, services to the students suffer : their interests also seemed to have weighed little, if at all, in EMB's balance of interests.

Fairness to teachers

5.13 Given the steady decline in birth rate, this will trend towards a progressive reduction in primary classes and teachers in aided primary schools, eventually also in aided secondary schools. In fairness to teachers and for the education of students, EMB must start now to plan for this eventuality in consultation with school sponsoring bodies and the teaching profession.

5.14 Many schools seem to be not yet prepared for identifying surplus teachers on the basis of performance. A representative of a school sponsoring body suggested that in many schools, the annual appraisal of teachers was mainly for the purpose of staff development and could not be used as a basis for identifying surplus teachers. A teacher's performance was, therefore, seldom taken into account in identifying who should go. The problem then is that brighter and more dedicated but younger and less experienced teachers might be lost to the students. Admittedly, it is human nature for principals to avoid confrontation with disgruntled staff and for schools to identify surplus teachers on the simpler and expedient approach of "last in, first out", particularly when Government would take care of those identified as surplus.

5.15 This natural but unhealthy phenomenon, if as prevalent among schools as seems to have been the case, is an indictment on Government education authorities and on school management over the years. Performance appraisal is, therefore, an aspect to be viewed by

all concerned as being essential to the proper development of the teaching profession for the well-being of students.

5.16 Related to this is the issue of tenure of teachers. As mentioned in paras. 3.2 – 3.5, in January 2003 EMB clarified with D of J that, contrary to the belief of many, registered teachers in aided schools do not have "permanent" employment. This should have paved the way for handling the issue of surplus teachers with better balance of the interests of all parties concerned. In fact, the arrangements envisaged by ED/EMB in late 2002/early 2003 did point in this direction (para. 2.7). However, apparently under pressure from representatives of the profession, EMB changed course and the arrangements subsequently implemented were slanted in favour of serving teachers (para. 2.11).

Fairness to students

5.17 The 2003 priority arrangements determined which teachers were to remain in a school for the education of young Hong Kong. If the ability of teachers was not taken into account in selection, the interests of the students would be prejudiced. The need for recently trained teachers with new knowledge, e.g. pastoral care and understanding of learning disabilities, was not met. Furthermore, with the administrative disruption to schools from the 2003 priority arrangements, the education programme of the schools would also be affected. In the balance of interests, EMB must have due regard for the interests of students, the ultimate beneficiaries of the education system.

Use of public funds

5.18 The creation of a class of Special Supply Teachers on monthly salary (as opposed to supply teachers normally on daily rate) incurred extra public money. Payment for a Special Supply Teacher is on the following basis:

- **basic salary** at 65% of the salary the teacher would earn if appointed as a regular teacher; and

- **extra payment** for the number of days exceeding 65% of the active school days worked as a supply teacher.

5.19 The following calculations illustrate the extra public money incurred:

Expenditure based on monthly rates

Midpoint salary of a Certificated Master, September – December 2003	$24,495 a month
Midpoint salary of a Certificated Master, January – August 2004 *	$23,743 a month
Employer's monthly contribution to MPF	$1,000
Total number of Special Supply Teachers appointed	74

Based on an average monthly salary at 85%# of the teacher's salary point, the estimated annual expenditure is –

$(24,495 x 85% + 1,000) x 74 x 4 + $(23,743 x 85% + 1,000) x 74 x 8 = $18,998,420
(say **$19M**)

(* Salary for January 2004 onwards was reduced by 3%, in line with the Civil Service pay revision.)
(# According to EMB, on average a Special Supply Teacher works for 85% of the active school days in the six-month period from September 2003 to February 2004.)

Expenditure based on daily rates (i.e. if paid as normal supply teachers)

Fixed daily rate for supply teacher $743

Assuming 190 active school days per year and using an 85% take up rate of supply teachers, the estimated annual expenditure including cost of employer's contribution to MPF is –

$743 x 74 x 190 x 85% x (1+5%) = $9,323,573
(say **$9.32M**)

*Estimated **additional** annual cost*

$(19 – 9.32)M = **$9.68M**

5.20 To examine whether the 74 Special Supply Teachers have been gainfully employed, we have studied records of payment to Special Supply Teachers for the first six months of their employment. Our findings are as follows:

Month	Special Supply Teacher On Basic salary	As % of the total of 74
September 2003	19	25.7%
October 2003	10	13.5%
November 2003	13	17.6%
December 2003	9	12.2%
January 2004	35	47.3%
February 2004	7	9.5%
	Average percentage	**21.0%**

It is clear that a goodly number of the Special Supply Teachers have worked as supply teachers for 65% of the active school days, or less. There is, therefore, a definite possibility of under-employment for some.

Points to ponder

5.21 Against this background, it is our view that:

(a) the "last in, first out" principle for selecting surplus teachers, without due regard to performance, is not sound or fair; and

(b) the arrangement of Special Supply Teachers is not value for public money, particularly at a time of financial stringencies.

6

CONCLUDING REMARKS

Key questions

6.1 The problem of surplus teachers is essentially an employment and labour relations issue, for resolution between the school as employer and the teachers concerned as employees. Yet, because of the substantial Government subsidy for aided schools from which the salaries of all teachers are paid, we accept that EMB has both the duty and the authority to be involved. However, in the process, the key questions are:

- What should be the objective of any arrangements to deal with the situation?
- Who are the stakeholders? What is the right balance of their interests?
- What should be the basis for identifying and selecting surplus teachers?
- What should Government's role be in such arrangements? How far should EMB be involved in identifying and appointing surplus teachers?
- How much freedom should schools have in the arrangements? What, if any, is the impact on school-based management?

Objective of the arrangements

6.2 EMB's stated aim of the 2003 priority arrangements was to assist the experienced and committed surplus teachers to remain in the profession. As observed in Chapter 5, the arrangements were "successful" in retaining the more experienced but could have excluded some highly committed, but younger and less experienced, teachers. Information available to us suggests that EMB's balancing exercise was slanted in favour of serving teachers, at the expense of school children and prospective teachers. It appears to us that in reality, the 2003 priority arrangements aimed primarily to keep the surplus teachers employed rather than to ensure the quality of those retained. This not only affects the current crop of HKIEd students but may also deter young people with good potential from taking up a career in teaching. This prejudices the future development of the profession and compromises the education of our young.

6.3 As the ultimate purpose must be to provide the best education possible for young Hong Kong, we suggest that EMB re-examine the arrangements for surplus teachers :

(a) whether they properly balance the interests of all stakeholders including students, schools, serving teachers, prospective teachers and Government as guardian of public funds; and

(b) how only those teachers who consistently perform better and can be expected to deliver the best education for our young should be retained.

In this context, The Ombudsman draws some conclusions from the findings of this investigation.

Government involvement

6.4 EMB played a central role throughout the operation of the 2003 priority arrangements. Apart from issuing quite restrictive guidelines, it closely monitored the progress of the employment of surplus teachers, issued "advisory" letters to schools to "urge" them to expedite priority appointment, organised group and professional interviews, created a class of Special Supply Teachers, "persuaded" school sponsoring bodies to appoint them and finally funded their salaries.

6.5 We do not question the need for EMB to play a part in resolving the surplus teacher issue. We consider that Government, as the custodian and controller of public funds for education, has a responsibility to ensure that the transition does not unduly disrupt school operations, to balance the interests of all stakeholders, to facilitate the retention and recruitment of quality teachers only and to guard against waste of public resources. In brief, EMB should focus only on matters at the macro level : setting basic principles for fairness, providing a broad framework and facilitating schools where necessary. It should not participate directly in such detailed operations as organising group interviews or "persuading" schools to take on certain candidates.

Basis of selection

6.6 Performance appraisal was suggested by some school representatives as a basis for selection but not included in the final guidelines, on the grounds that many schools were not ready yet (para. 2.9(a)). To us, this is somewhat surprising as appraisal has been encouraged and promoted by Government for years : all schools have been required to put in place a "fair and open Staff Appraisal System" *vide* Administration Circular No. 3/99 issued by the then ED on 25 January 1999.

6.7 We understand that using performance as a basis for setting priority in redundancy can be controversial and create work and pressure for school management. Yet, this is common practice in most trades and professions. Schools should develop in consultation with their employees a fair, open and objective system of performance appraisal. EMB should provide technical advice and general guidance to schools in the process of formulation. We believe that using performance-based criteria to identify and select surplus teachers is fair to the teachers and to students, to schools and to prospective teachers.

Autonomy for schools

6.8 The 2003 priority arrangements were intended to give schools a free hand to identity surplus teachers. Regrettably, as it happened, many (maybe even most) schools continued to adopt the "last in, first out" principle. Perhaps this was ready and expedient, customary and convenient. Basically, it was indicative of the dilemma for and dichotomy of schools in management. Understandably, they prefer peace to pressure, from teachers or EMB; they want autonomy and authority but not necessarily the accountability. The result, as mentioned in para. 5.4, was some schools trying to beat the 2003 priority arrangements by giving verbal undertaking of appointment to candidates other than surplus teachers during the "priority appointment" period, issuing the appointment letter afterwards.

6.9 We consider that in keeping with the spirit and intent of school-based management, long promoted by EMB, schools should have autonomy **and** exercise their discretion in recruiting teachers. Schools should genuinely practise school-based management, take up their management functions and be properly accountable.

Long-term interests

6.10 We appreciate that it is individual teachers' immediate interest to secure and retain employment. Life tenure and priority appointment, of course, offer a high degree of job security. However, for the long-term development of the teaching profession and good education for our young, a broader view should be taken: beyond individual interests and beyond the present. We are concerned that appointment by seniority rather than by performance and professional excellence may compromise the long-term standard of teachers and development of the profession. This may result in an unhealthy situation where junior members of the profession perceive their job opportunities as being blocked by those who surpass them only by seniority. As the problem of surplus teachers will inevitably progress to secondary schools, it is imperative not just for Government but also for school management and the teaching profession to take a broader view of all the issues involved and

plan for the longer term interests of all partners in education.

6.11 Looking further ahead, changes in student population, new trends in education and greater emphasis on individual and special needs of students will call for changes in the subjects to be taught in schools and constant injection of new concepts in education. Schools and the teaching profession must anticipate and adapt - by re-training, refresher and injecting new blood - to maintain the professionalism of teachers and the quality of school education.

Code of Aid for review

6.12 EMB has it on its agenda to review and update the Code. We support this initiative and suggest that EMB take this opportunity to clarify the provisions relating to employment and termination of service of teachers. It is important, and fair, to both teachers and school management, to remove any confusing or contradicting clauses. We sincerely urge EMB to expedite the review.

Partnership in education

6.13 The problem of surplus teachers in aided schools is a complex issue, affecting many in the school sector and carrying long-term implications on the education of young Hong Kong. It will persist in the years to come and soon surface in aided secondary schools. An essential and urgent task for Government and school management is forward planning in anticipation of changes including (but not exclusively) the decline in student population. For Government, this calls for consultation with stakeholders and for early notification to schools, on the progressive restructuring of classes, development of a realistic manpower plan for the school sector (primary and secondary) and review the teacher training programme for appropriate adjustment.

6.14 Government and school sponsoring bodies, principals and the teaching profession, teacher training institutions and parents of students are all partners in the education of our young. Each party should critically re-examine the respective role and responsibilities for the development and preparation of young Hong Kong for the challenges in life and contribution to the community.

7

FINAL REMARKS

Comments from EMB

7.1 We are grateful to SEM for the prompt comments on our draft report. These included suggestions for textual amendment and a general statement of EMB's position on the subject. We have incorporated practically all of EMB's textual suggestions with two exceptions, those on paras. 5.20 and 5.21 which we will comment below. EMB's general statement is reproduced in full as the **Addendum**.

7.2 ***On para. 5.20, EMB has commented*** : "The figures in the Table reflect only that 21% of the Special Supply Teachers were on basic salary. It has no relevance that these teachers were taking up supply teacher duties for less than 65% of the school days. It should also be noted that these teachers are full-time teachers appointed to the schools and they have to take up or assist in conducting education related activities when they are not engaged in supply teacher duties."

7.3 We cannot accept this statement. By definition and nomenclature, a "Special Supply Teacher" is intended to perform, in the main, the duties of a supply teacher. The fact that 21% of them were drawing only basic salary cannot rule out the possibility that some of them had been working for less than 65% of their time as supply teachers.

7.4 ***On para. 5.21, EMB has commented*** : "The additional cost of the Special Supply Teachers is a small price to pay for maintaining the stability of the teaching profession and taking into account the fact that these teachers are appointed full-time and have to take part in other education related activities when they are not working as supply teachers."

7.5 We do not agree that the additional expenditure of $9.68M for Special Supply Teachers is "a small price to pay". In times of considerable financial stringencies, when the Civil Service is subject to substantial cuts in expenditure and freeze on recruitment, we question if such extra cost is just "a small price".

Final Remarks from The Ombudsman

7.6 On EMB's general statement (**Addendum**), The Ombudsman comments as follows :

(a) Paras. 2 and 3 of Addendum

7.7 We welcome EMB's acceptance that it should not be involved in the recruitment process of surplus teachers and will, therefore, have minimal involvement in the recruitment operations. We view with reservations EMB's retention of the arrangement of Special Supply Teachers "as a last resort".

(b) Paras. 12 and 13 of the Addendum

7.8 We appreciate the difficulties in projecting accurately the supply and demand of teachers or the changes in student population. However, we consider it imperative for responsible and responsive Government to plan and periodically review the community's manpower needs. We emphasise, too, that our report has not suggested "to reduce the number of teacher places". Our view is that EMB, schools and teaching profession should prepare themselves through retraining, refresher and injection of new blood to meet the challenge of changing needs in education.

7.9 After careful consideration of SEM's response, The Ombudsman remains of the view that our suggestions should stand. For easier reference, we cite the relevant paragraphs below :

Para.	**Gist**
6.3	• EMB to re-examine arrangements for surplus teachers
6.5	• EMB to focus on matters at marco level
6.7	• Schools to develop performance appraisal system
	• EMB to provide technical advice and general guidance
6.9	• Schools to practise school-based management properly
6.11	• Schools and the teaching profession to anticipate and adapt to change

6.12 • EMB to expedite review of Code of Aid

6.13 • EMB to develop a realistic manpower plan for the school sector

• EMB to review teacher training programme

We will monitor the progress of EMB's follow-up action.

A note of thanks

7.10 The Ombudsman is grateful to EMB and HKIEd, school sponsoring bodies and school councils, PTU and HKIEd graduates as well as school representatives for advice and assistance throughout our investigation.

Office of The Ombudsman
OMB/DI/115
May 2004

Addendum

Extract from EMB's Response dated 14 May 2004

Government involvement

1. We have taken into consideration the interests and concerns of all stakeholders and tried to strike a balance among competing interests in implementing the Priority Arrangements. It is important to note that maintaining stability in the teaching profession is considered important to uphold the morale of teachers which, in turn, will benefit the education of our children.

2. We acknowledge that school sponsoring bodies are the employers of teachers. While EMB will facilitate the employment of surplus teaches, we agree that EMB should not be involved directly in the recruitment process, such as organizing group interviews, or persuading schools to consider taking on certain candidates.

3. Beginning this year, and having consulted the stakeholders about the duration of the priority appointment period, we have decided that the period should end on 30 June 2004. We have been actively promoting job sharing on a voluntary basis, and have introduced the Early retirement Scheme to create more employment opportunities. The Special Supply Teacher arrangement would only be considered as a last resort to accommodate professional and committed teachers who failed to find a teaching post for various reasons.

Basis of selection

4. The identification of surplus teachers will take into account a range of factors, e.g. performance, subject match, attitude, and potential. The importance with which schools attach to each of these factors will vary depending on individual circumstances and the school culture. Some school may find subject match a key consideration in determining which teacher should be made redundant.

5. We encourage schools to formulate their own criteria for identification of surplus teachers and require that ht criteria should be fair and transparent. Prior to implementation, teachers should be consulted in formulating the criteria, and the

process should be open and transparent. We also require the school management committee to devise and appeals procedure.

6. Following the recommendation of the Education Commission Report No. 7, all schools were required to put in place by 2000 an effective staff appraisal system which is reasonable and open. We issued a publication entitled 'Teacher Appraisal' in September 1998, which was updated in February 2003. Another publication entitled 'Teacher Performance Management' has also been uploaded on the EMB website. They provide general guidance and reference for schools to develop their own appraisal system. We see performance appraisal as part of a staff development process, and day-to-day management responsibility. Identifying surplus teachers is a separate process which should not be taken as a soft option for getting rid of non-performing or under-performing teachers. The latter is governed by procedures in the Code of Aid.

Autonomy for schools

7. The implementation of the priority arrangements has not departed from the spirit of school-based management. Schools have the discretion to interview both surplus teaches and other applicants during the priority appointment period to identify the most suitable candidate. The final decision of staff appointment also rests with the schools.

8. Being a part of the education system, publicly funded schools share the responsibility to help retain expertise in the teaching profession and maintain the stability of the teaching profession, which are the primary objectives of the priority arrangement.

Long-term interests

9. In handling the surplus teachers in future, the Administration will continue to strike a reasonable balance between facilitating the surplus teachers to find an alternative appointment and maintaining a healthy turnover in the teaching force.

Code of Aid for review

10. We have clarified the notion of 'permanent appointment' through a circular issued in 2001 and reiterated in another circular dated 13 June 2003. The

term "permanent" serves to distinguish the employment of teachers with the relevant qualifications from the temporary employment of unqualified teachers, and does not mean lifelong employment. We have started to review and update the Code of Aid to suit present day circumstances. This is a highly complex exercise and will require extensive consultation.

Partnership in education

11. Schools have been notified of the continual decline of student population in the coming years. In anticipation of possible under-enrolment, we are actively exploring the possibility of mergers to consolidate schools for better development and to reduce the overall provision of school places in areas with a reduced demand.

12. As regards manpower planning and teacher education, it is not possible to have accurate projections of the supply and demand of teachers in view of the lead time for training and the triennium funding arrangement for universities. It is also difficult to predict the turnover of teachers and the number of graduates who will join the teaching profession as the economy revives.

13. It will not be in the long-term interest of education to reduce the number of teacher places to accommodate the declining demand. From 2005 onwards, all graduates of the Hong Kong Institute of Education will be degree holders. They are better prepared to cope with the demands of the education reform than some of the serving teachers who are sub-degree holders. We also need the four-year degree places to train more and better English teachers and the English proficiency of the student teaches themselves may need enhancement.

14. We envisage the problem of surplus teachers will linger on for a number of years, and will work with the key stakeholders to find and acceptable balance among competing interests.

****

(The rest is specific suggestions for textual amendment which have been incorporated with two exceptions : see para. 7.1of the report.)

ANNEX 1

School sponsoring bodies approached for comments on the 2003 priority arrangements

(1). Bishop of the Roman Catholic Church in Hong Kong, Inc.

(2). Church Body of the Hong Kong Sheng Kung Hui

(3). Hong Kong Council of the Church of Christ in China

(4). Po Leung Kuk

(5). Tung Wah Group of Hospitals

(6). The Hong Kong Buddhist Association

(7). The Methodist Church Hong Kong

(8). Hong Kong Taoist Association

(9). Canossian Missions

(10). The Lutheran Church – Hong Kong Synod

(11). The Lok Sin Tong Benevolent Society, Kowloon

Education and Manpower Bureau Circular Memorandum No. 45/2003

From:	Secretary for Education and Manpower	To:	Supervisors / Heads of all aided primary schools (excluding special schools)
Ref.	ED(SCH)P/8/78 XIX	c.c.	Heads of government primary schools and Heads of sections - for information
Date:	21 March 2003		

Arrangements for Redundant Teachers of Aided Primary Schools 2003

SUMMARY

This circular memorandum announces the arrangements for redundant teachers of aided primary schools (excluding special schools). Schools are requested to bring this circular memorandum to the attention of their teachers.

DETAILS

2. It was spelt out in Circular Memorandum No. 17/2003 issued on 27 January 2003 that all teaching posts of aided primary schools falling vacant from 1 February 2003 to the end of this school year must be filled by temporary teachers. Besides, schools are required to report all such vacant posts and any anticipated teaching vacancies for the 2003/04 school year to the Education and Manpower Bureau (EMB), and give priority consideration to redundant teachers in filling the vacancies.

3. After thorough review and consultation with relevant parties, the arrangements for redundant teachers of aided primary schools this year are set out in the following paragraphs.

Reporting Teaching Vacancies and Offering "Priority Appointment" to Redundant Teachers

4. Upon notification of the class organisation and teaching staff establishment for the 2003/04 school year in early April, schools are required to report all vacancy information (including the anticipated vacancies arising from additional classes, creation of new posts, retirement and resignation of serving teachers, etc) to the Placement and Support Section of the EMB and copy to the School Development Section of the respective district before 15 April 2003. In case of any subsequent change in the vacancy situation (e.g. resignation of serving teachers), schools are also required to inform EMB immediately. The standard proforma to be used by schools

for the purpose is at Appendix I.

5. Based on the information collected from schools, the Placement & Support Section of EMB will compile a list of all the teaching vacancies (including both full-time and part-time vacancies) for uploading to the EMB Homepage at http://www.emb.gov.hk as from 30 April 2003 for reference of redundant teachers.

Appointment of Teachers on a Job Sharing Basis

6. Subject to the needs of schools and the wish of teachers concerned, schools may recruit more than one teacher to fill a teaching post within the approved staff establishment. Appointment of these part-time teachers to fill teaching posts at various ranks should be in accordance with the Code of Aid and the Guides to Appointment for the respective ranks currently in force. Like regular full-time teachers, regular part-time teachers within the approved teaching establishment are subject to the provisions under the Code of Aid, including eligibility for joining the Subsidized Schools Provident Fund, entitlement to various types of leave such as paid sick leave and their part-time teaching experience being recognized on a pro-rata basis for incremental and promotion purposes. Schools are required to report the vacancies arising from the appointment of teachers on a job sharing basis by means of the same proforma at Appendix I, and give priority to redundant teachers in filling such vacancies.

Identifying Redundant Teachers

7. For schools having teaching staff redundancy (which refers only to the regular teachers appointed within the normal teaching staff establishment), the School Management Committees (SMCs) should work out a set of "school based" criteria (e.g. school's genuine needs on the subject specialties of teachers, the developmental requirements of schools, etc) which are objective, fair and transparent so as to identify the sequence of teachers to become redundant. Schools can also adopt the "last in, first out" principle as the criterion.

8. The SMCs are also required to set up an appeal mechanism, which should serve as an effective channel for teachers to communicate with the school related to issues on redundant teachers. At the same time, the school sponsoring bodies have the responsibility to ensure that both the criteria and the appeal mechanism are applied consistently within the schools concerned.

9. The criteria and appeal mechanism should be in place, documented and announced to all teachers by mid-April 2003. This facilitates identification of redundant teachers and notification to the teachers concerned as early as possible

when the school is informed of the class organization and staff establishment for the 2003/04 school year in April.

10. For the redundant teachers on secondment to other aided primary schools as supply teachers for the 2002/03 school year and the teachers who became redundant consequent upon the revised class structure after commencement of the 2002/03 school year, as they are still employed by their original schools, the schools concerned should ensure that the formulation and application of the criteria for identification of redundant teachers cover these teachers.

Redeploying Redundant Teachers by School Sponsoring Bodies

11. A sponsoring body operating more than one school should arrange to redeploy all of its redundant teachers to fill available vacancies in other schools under its sponsorship. A sponsoring body can appoint school heads to fill headship posts. However, the teaching posts becoming vacant due to promotion and/or transfer must be counted as available vacancies for redeployment of their own redundant teachers or for offering "priority appointment" to other redundant teachers of this year.

12. If the redundant teachers out-number the vacancies, the sponsoring body should also put in place a set of criteria to redeploy the redundant teachers to fill all the vacancies available among the schools under its sponsorship based on the needs of schools. The redeployment arrangements should be completed by the end of April as far as possible to facilitate application for teaching posts to other schools by the remaining redundant teachers.

13. After the redeployment made in April, if vacancies subsequently arise in schools under the same sponsorship, the sponsoring body should redeploy the same number of redundant teachers who have not yet secured teaching posts to fill such vacancies. Sponsoring bodies are required to inform EMB of such arrangement by means of the proforma at Appendix II.

14. In the event that reduction of classes affects the number of senior teachers and/or the headship entitlement of a school, a sponsoring body operating more than one school should transfer the redundant senior teachers to fill available senior teacher vacancies in other schools under its sponsorship and redeploy heads so that the substantive rank of the head of the school does not exceed the headship entitlement. Exceptionally, where circumstances warrant it to offset vacant senior teacher post(s) and/or headship rank in one school against that/those in excess in another, it should document each time details of the reasons/justifications for adopting the "offsetting" arrangement so as to safeguard against possible allegations

of impropriety. In this connection, schools should note that the additional senior teacher post of English provided to a primary school with six or more operating classes as announced via Administration Circular No. 36/2001 will not be used for offsetting purposes. However, for schools operated by one-school sponsors, or where there are no available senior teacher vacancies and/or vacancies of appropriate headship rank in schools under the same sponsor for redeployment or "offsetting" purposes, the redundant senior teachers should step down to become basic rank teachers and the over-ranked heads should assume an appropriate lower rank. As recommended by the Director of Audit, from September 2003 onwards, redundant senior teachers and over-ranked heads (including those who stepped down prior to 1 September 2003) will, subject to the approval of the School Development Section of the respective district, be allowed to retain their pay point as at 31 August 2003 and not be granted any salary increments until they are reinstated to their former rank for normal progression along the respective salary scale. This exceptional arrangement should be rectified whenever opportunity arises.

15. In case reduction of classes in a school also affects the number of its graduate teacher post entitlement, any excess number of the graduate teachers at the ranks of Assistant Primary School Master/Mistress (APSM) and Primary School Master/Mistress (PSM) within the school will be accommodated as far as possible. However, the school should make rectification whenever opportunity arises. In this connection, schools should include how excess primary graduate teachers should be identified in their set of "school based" criteria, and cover this group of teachers in their appeal mechanism mentioned in paragraphs 7 and 8 above. Further, from September 2003 onwards, excess graduate teachers (including PSMs and APSMs) who have their pay point as at 31 August 2003 exceeding the maximum pay point of the pay scale for the corresponding non-graduate rank will be allowed, subject to the approval of the School Development Sections of the respective district, to retain their pay point as at 31 August 2003 and not be granted any salary increments until their schools can absorb the excess primary graduate posts. Excess APSMs with their pay point not yet exceeding the maximum pay point of the Certificated Master/Mistress (CM) pay scale should be allowed to proceed along the CM pay scale.

Confirming and Providing Information of Redundant Teachers

16. On confirming the list of redundant teachers, the SMC should issue the following documents to each redundant teacher by <u>the end of April</u> -

(a) A "Letter of Reference for Redundant Teacher" (sample at Appendix III) certifying his/her identity as a redundant teacher of the current year;

(b) "Personal Particulars of Redundant Teacher in Aided Primary Schools" (Appendix IV) (to be completed by the redundant teachers); and

(c) "Notes for Redundant Teachers on Application for Teaching Posts" (Appendix V).

Schools are required to forward at the same time the list of redundant teachers and a copy of their "Personal Particulars of Redundant Teacher in Aided Primary Schools" in one batch to the School Development Section of their respective district.

17. In case of any vacancies arising subsequently in the school with redundant teachers, the school should absorb the same number of its redundant teachers who have not yet secured teaching posts. Schools are required to use the same proforma at Appendix II to inform EMB accordingly.

Application for Teaching Posts by Redundant Teachers

18. To streamline the procedures for redundant teachers to apply for teaching posts, redundant teachers need not register with EMB. Based on the vacancy information on the EMB designated web page, they can apply for any teaching posts by forwarding their personal particulars (i.e. Appendix IV, inserting where appropriate the name of school being applied for) together with the "Letter of Reference for Redundant Teacher" by fax or mail to the schools direct. Selection for interviews will be arranged by schools on receiving the applications.

Appointment of Redundant Teachers and Related Arrangements

19. On receiving the applications from redundant teachers, schools should arrange for interviews with the suitable candidates as soon as possible. Schools should note that in arranging interviews and offering appointments to redundant teachers, only those who can produce the original of the "Letter of Reference for Redundant Teacher" certifying their identity as redundant teachers should be considered.

20. On confirming the appointment of a redundant teacher, schools should sign and affix the school chop on the "Letter of Reference for Redundant Teacher" immediately and retain a copy for record purpose. Normal appointment procedures with the teacher and the relevant sections of EMB should be completed accordingly. Schools are required to complete Part C of the "Particulars of Teaching Vacancy in Aided Primary Schools" (Appendix I), and fax it immediately to the Placement and Support Section of EMB again for record updating. Timely provision of updated vacancy information by schools will greatly facilitate redundant teachers to secure

teaching posts and schools to recruit suitable teachers early.

21. In order to help the redundant teachers to secure teaching posts soonest possible, and subject to the situation then, EMB would arrange group interviews around May /June to facilitate the redundant teachers and the schools in the application and recruitment process. Schools still with teaching vacancies are required to proceed with the recruitment interviews at venues specifically arranged for the purpose. Details of the group appointment interviews will be announced in due course.

22. We anticipate that the aforesaid arrangements of "priority appointment", redeploying redundant teachers by school sponsoring bodies, job sharing, enhancing the information flow of teaching vacancies, direct application by redundant teachers to schools, and group appointment interviews would speed up the process of finding teaching posts by the redundant teachers of this year. We trust that with the full support and cooperation of schools, the problem of redundant teachers would be resolved around early July this year. By then, schools can make their own arrangements to appoint teachers to fill their teaching vacancies. On the whole, the above arrangements would speed up the recruitment /appointment process for the redundant teachers and would provide more time for schools to plan their staff deployment for the new school year, as well as more opportunities of application for teaching posts for the potential teachers.

Enquiry

23. A quick reference on the procedures for handling the redundant teachers and teaching vacancies is prepared at Appendices VI(a) & (b). For further enquiry, please contact the School Development Section of your district.

(S L MA)
for Secretary of Education and Manpower

資助小學教職空缺資料
Particulars of Teaching Vacancy in Aided Primary Schools

注意：每一教職空缺(全職/部份)，請另用一表 / Please use a separate form for each full/part time vacancy

甲部 學校資料 / Part A School Information

學校名稱 School Name		電話 Tel No	
校址 Address		傳真 Fax	

乙部 教職空缺資料 / Part B Particulars of Teaching Vacancy

任教部制 Session	上午 ☐ AM 下午 ☐ PM 全日 ☐ WD		全職 ☐ Full time 部份教職 ☐ ( ) Part-time 請以小數表示，如 0.4、0.5 等 Please state fraction, e.g. 0.4, 0.5 etc	
要求 Requirements	(a) *科目* *Subjects*	主要任教科目 (請列一項) Major (list one only)	級別 level(s)	
		其他任教科目 (請列一項) Others (list one only)	級別 level(s)	
	(b) *其他需擔任職務* *Other Duties Required*			

日期/ Date______________________ 簽署/ Signature ______________________

校監 / 校長
Supervisor / Headteacher

如貴校已聘用本年度的超額教師填補以上空缺，請填寫丙部，並立即把此表格再次傳真回本局。
Please complete Part C below if your school has appointed a redundant teacher of the current year to fill the above-mentioned vacancy and fax this form to EMB again immediately.

丙部 填補空缺 / Part C Filling of Vacancy

本校已聘用本年度的超額教師（姓名______________________ 原校名稱______________________）填補上述乙部呈報的空缺。

Our School has appointed a redundant teacher of the current year (Name______________________ from______________________ School) to fill the teaching vacancy reported in Section B above.

日期/ Date______________________ 簽署/ Signature ______________________

校監 / 校長
Supervisor / Headteacher

副本送/ c.c. ____________ 區學校發展組 / ( ) School Development Section

附錄 II
Appendix II

致/To： 教育統籌局學位安排及支援組
Placement & Support Section, EMB
傳真/Fax：2123 1239

辦學團體調派/原校吸納超額教師
Re-deployment/Absorption of Redundant Teachers by Original School/School Sponsoring Body

超額教師姓名 Name of redundant teachers	原任學校 Original school	經辦學團體調派 (學校名稱) Redeployed by sponsoring body (Name of school)	原校吸納填補空缺 (Absorbed by original school to fill a vacancy) （是／否 Yes/No）

辦學團體或學校名稱
Name of sponsoring body/school ______________________

校監/校長姓名
Name of supervisor/headteacher ______________________

簽署/Signature ______________________

日期/Date ______________________

副本送/c.c. [*超額教師原任學校地區*]學校發展組
/ (*district of the original school of the redundant teacher*) School Development Section

Sample

Appendix III

(Please use letterhead of the school)

Letter of Reference for Redundant Teacher
Mr/Ms____________________

Date

To Whom It May Concern

According to the approval on class organization of this school for the 2003/04 school year by the Education and Manpower Bureau, there will be a reduction of classes. This is to certify that Mr/Ms________________ (ID Card No. ____________) is a redundant teacher from this school due to the corresponding decrease in the teaching staff entitlement for the 2003/04 school year.

Details of the service of Mr/Ms ____________________ in our school are listed below:

Period of service: from day/month/year to day/month/year

Rank (by the time of leaving): (e.g. CM, APSM, AM etc)

Major subject(s) taught and levels:

Other duties taken up:

Salary (by the time of leaving): $XXXXXX (MPS Pt. X)

(Recommendation to be incorporated by the school where appropriate)

( )

Supervisor

xxxxxx School

The school offering appointment to the above redundant teacher completes this part and retains a copy of this Reference Letter for record purpose.

School ______________________________

Name of Schoolhead / Supervisor ______________________

(Signature)

Date ______________________________

School Chop
of the school appointing the above redundant teacher

附錄 Г
Appendix IV

致 /To：________________________________學校 /School
(向學校申請教職適用/applicable to application for teaching post)

資助小學超額教師個人資料表
Personal Particulars of Redundant Teacher in Aided Primary Schools

教師姓名 (中文)		Name (English)	
出生日期 Date of Birth	性別：男 / 女* Sex: M / F*	電話 Tel	傳真 Fax
住址 Address			

學 歷 / Qualification

學校名稱 / Name of Schools		就讀日期 (月/年 – 月/年) Date of Attendance (m/yr – m/yr)	證書 / 文憑 / 學位 certificate/ diploma/degree	大學 / 師訓主修及副修科目 Major and Minor Subjects at University/ Teacher Training Institute
中學 Secondary				
大學 University				
師訓 Teacher Training				

其他教育進修課程/ Other Educational Courses (如教學、學校行政、音樂、體育、普通話、資訊科技等/ e.g. pedagogy, education administration, music, PE, PTH, IT etc)

課程名稱/ Name of Courses	進修日期 (月/年 – 月/年) Dates of Attendance (m/yr – m/yr)	所獲證書 Qualification Attained

教學經驗 / Teaching Experience

學校名稱 Name of Schools	資助/私立 Aided/ Private	職級 /Post (e.g. CM, APSM)	全職/部份職位 Full/Part -time	任教日期 (月/年 –月/年) Period of Service (m/yr – m/yr)	任教科目及班級 Subjects Taught and Levels	其他職務/課外活動 Other Duties/Extra-curricular Activities

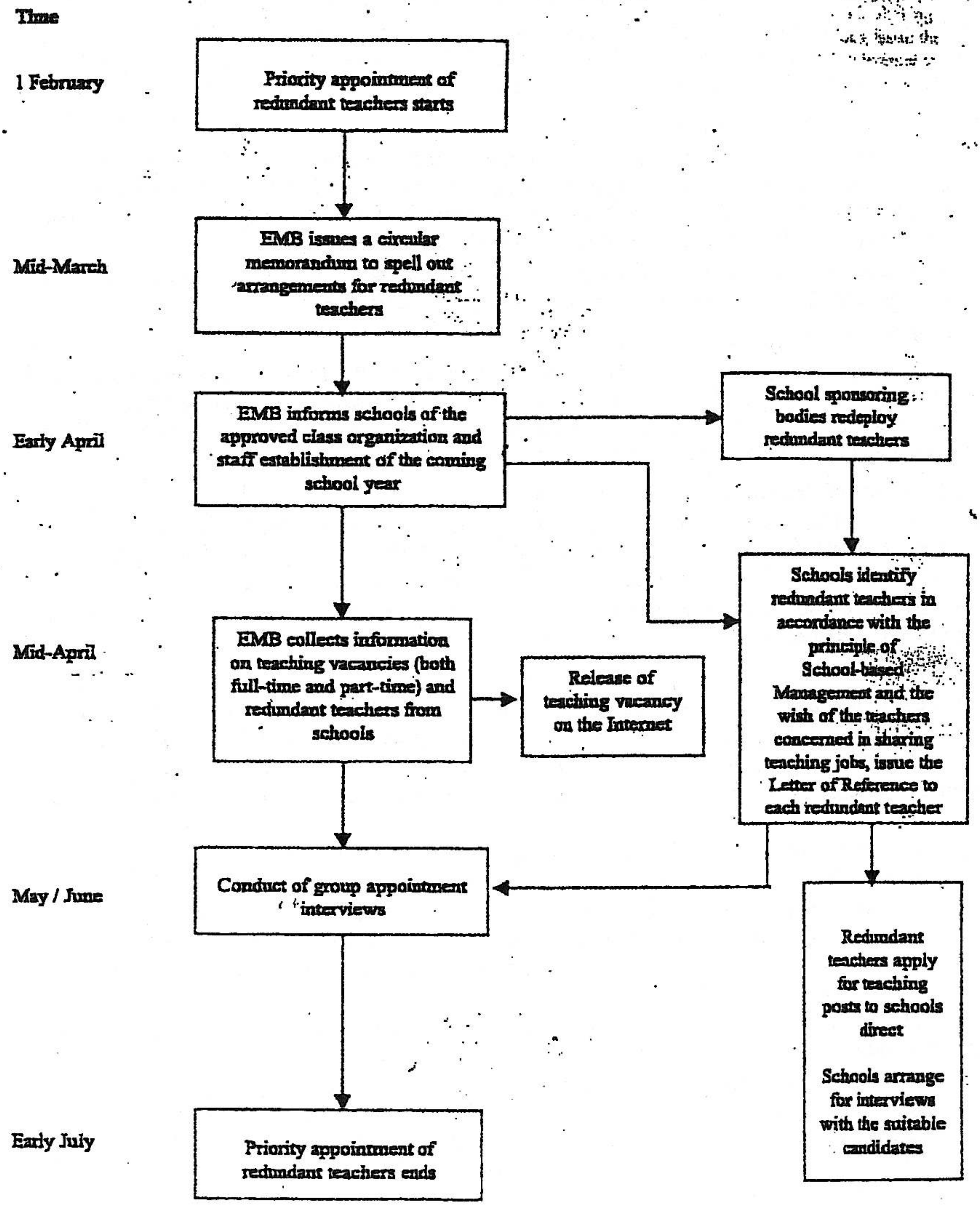
日 期 / Date __________________ 教師簽署 / Signature ______________________

* 請刪去不適用者/ Please delete the inappropriate

注意/Note：

1. 請用正楷填寫本表格/ Please complete the form in block letters.
2. 申請人所提供的個人資料只作資助小學超額教師申請教職用途，當有關招聘工作完結後，所有資料如無須保留，將全部銷毀。/ The personal data collected above shall be used only for application for teaching posts of redundant teachers in aided primary schools. On completion of the recruitment process, the data collected shall be erased when they are no longer required.
3. 申請人在本表格適當位置填寫申請教職的學校名稱，並連同「超額教師推薦信」，一併傳真或郵寄至申請的學校。/ Applicant inserts where appropriate the name of school being applied for and forward this form together with the "Letter of Reference for Redundant Teacher" by fax or mail to the school direct.

Arrangements for Redundant Teachers in Aided Primary Schools
Flowchart of Work



Notes for Redundant Teachers on Application for Teaching Posts

Personal Particulars of Redundant Teachers in Aided Primary Schools

1. Redundant teachers are required to complete this proforma with a copy forwarded to the School Development Section of their respective district via their original schools by the end of April 2003, and make copies of it for application for teaching posts (paragraph 4 below refers).

Information of Teaching Vacancies

2. Based on the vacancy information provided by aided primary schools, a list of teaching vacancies will be posted on the EMB Homepage at http://www.emb.gov.hk as from 30 April 2003 for reference of redundant teachers. Redundant teachers may browse the information by entering into the section on "Teachers" from the front page at the above web site.
3. Other arrangements relating to the application of teaching posts by redundant teachers, if any, will also be announced via the above-mentioned home page in due course.

Application for Teaching Posts

4. Redundant teachers should apply for teaching posts direct by faxing or mailing their completed "Personal Particulars of Redundant Teacher in Aided Primary Schools" together with their "Letter of Reference for Redundant Teacher" to the schools direct. Selection for interviews will be arranged by the schools receiving the applications if necessary.

Interview and Appointment Arrangements

5. Redundant teachers should bring along the relevant documents and certificates together with the original of the "Letter of Reference for Redundant Teacher" issued by their original schools to attend interviews and for appointment purpose where appropriate.
6. The post/rank of the teacher to be appointed will be determined according to the vacancy and needs of the schools concerned.

After Appointment

7. On deciding the appointment of a redundant teacher, the headteacher or supervisor of the aided primary school will sign on the "Letter of Reference for Redundant Teacher" and retain a copy of the document for record purpose.
8. A redundant senior teacher on appointment by another aided primary school as a basic rank teacher may opt for -

   (i) to reserve his/her senior teacher experience for the award of increments when he/she is appointed/promoted to a senior teacher post in future; or

   (ii) to have his/her senior teacher experience counted as relevant experience in the calculation of his/her salary at the basic rank in the new school and to be remunerated at the initial point of the appropriate salary scale when he/she is appointed/promoted to a senior teacher post in future.

   The redundant teacher concerned should apply for either of the above arrangements to his/her Senior School Development Officer via his/her new appointing school.
9. Redundant teachers who have not served in the aided sector for one full academic year may apply to their original schools for the salary of August on condition that they can secure a teaching post and have taken up duties in another aided school at the commencement of the next school year. The original schools of the redundant teachers will report to the School Development Section of their respective district accordingly.

Personal Data

10. Redundant Teachers have the right of access and correction with respect to personal data as provided for in Section 18 and 22 and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Enquiries concerning the personal data collected by means of the proforma "Personal Particulars of Redundant Teacher in Aided Primary Schools" including the making of access and correction should be addressed to the organization collecting the proforma.

Appendix VI(b)

Procedures for Handling Redundant Teachers and Teaching Vacancies 2003

Time	Event	Documents for reference/use
Early February	Starting from 1 February, schools should only appoint temporary teachers to fill teaching vacancies	EMB Circular Memo 17/2003
Mid-March to mid-April	Schools anticipated to have teacher redundancy work out criteria for identification of redundant teachers and set up an appeal mechanism, and inform all teachers accordingly	[illegible] I of EMB
Early April	Schools informed of the approved class organization and teaching staff establishment of the 2003/04 school year	To be informed by EMB separately
As from early April	School sponsoring bodies redeploy redundant teachers to fill vacancies in other schools under the same sponsorship	[illegible]ndix II of EMB [illegible] Memo No.
As from mid-April	• Schools report the first batch of vacancy information (including the vacancies being filled by temporary teachers and the anticipated vacancies for 2003/04 school year) to EMB before 15 April 2003 • Schools inform EMB immediately of any subsequent change in the vacancy situations	Appendix I of EMB Circular Memo No. 45/2003
By end-April	Schools with redundant teachers • confirm the list of redundant teachers • issue to the redundant teachers the "Letter of Reference for Redundant Teacher", "Personal Particulars of Redundant Teacher in Aided Primary Schools" and "Notes for Redundant Teachers on Application for Teaching Posts" • forward to the School Development Section of their respective district in one batch the list of redundant teachers and copies of the "Personal Particulars of Redundant Teacher in Aided Primary Schools" collected from the redundant teachers	• Appendix III, IV and V of EMB Circular Memo No. 45/2003 • Appendix IV of EMB Circular Memo No. 45/2003
As from end-April	• With reference to the vacancy information on the EMB homepage, redundant teachers apply for teaching posts to schools direct • Schools arrange for interviews with redundant teachers • Schools inform EMB immediately on deciding to appoint redundant teachers, and complete the appointment procedures accordingly	• Appendix I of EMB Circular Memo No. 45/2003
As from early-May	School sponsoring bodies / the original schools inform EMB of the subsequent redeployment/absorption of redundant teachers to fill newly arising vacancies	Appendix II of EMB Circular Memo No. 45/2003
May / June	Group appointment interviews	To be announced by EMB in due course
Early July	Priority appointment of redundant teachers ends	To be announced by EMB in due course

ANNEX 3

Summary of provisions in the Code of Aid for Primary Schools relating to dismissal and termination of appointment of teachers

Section 55

The Management Committee of an aided school may, subject to the approval of the Director of Education, temporarily employ an unqualified person as a teacher if a qualified person is not available to fill a vacancy.

Section 56

Contracts of service or letters of appointment of teachers "shall not be subject to annual renewal but may specify a period of time to which its terms and conditions shall refer".

Section 57

"A teacher on first appointment to an aided school shall serve a probationary period of two years, after which the employment of such teacher shall be permanent, subject to such provisions regarding termination of employment as may be contained in such teacher's contract of service or letter of appointment."

Section 58(c)

"The employment of a teacher who has satisfactorily completed a probationary period shall be terminable by the giving of three months' notice in writing by the Management Committee (MC) of the school or by the teacher".

Section 58(g)

"the MC of an aided school shall only dismiss a teacher for good and sufficient reasons (see Appendix 16 and 17)."

Appendix 16

The procedure for dismissing or terminating the appointment of a teacher

requires the teacher concerned to be warned twice that his/her work is unsatisfactory. One of the warnings must be in writing copied to the Secretary for Education and Manpower, who would investigate the circumstances. It is only when the teacher shows no improvement within an appropriate period after each warning and has been given sufficient notice in accordance with section 58 of the Code, can the teacher be dismissed.

<u>Appendix 17</u>

"the procedures relating to Dismissal or Termination of Appointment of a teacher as spelt out in Appendix 16 should be observed strictly" by schools.